

1 KEKER & VAN NEST LLP
ROBERT A. VAN NEST - # 84065
2 rvannest@kvn.com
CHRISTA M. ANDERSON - # 184325
3 canderson@kvn.com
DANIEL PURCELL - # 191424
4 dpurcell@kvn.com
633 Battery Street
5 San Francisco, CA 94111-1809
Telephone: (415) 391-5400
6 Facsimile: (415) 397-7188

7 KING & SPALDING LLP
BRUCE W. BABER (pro hac vice)
8 bbaber@kslaw.com
1185 Avenue of the Americas
9 New York, NY 10036
Tel: (212) 556-2100
10 Fax: (212) 556-2222

11 Attorneys for Defendant
GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,
16 Plaintiffs,
17 v.
18 GOOGLE INC.,
19 Defendant.

Case No. 3:10-cv-03561 WHA

**DECLARATION OF REID P. MULLEN IN
SUPPORT OF GOOGLE INC.'S
ADMINISTRATION MOTION TO SEAL
MOTIONS IN LIMINE AND
CORRESPONDING EXHIBITS**

Dept. Courtroom 8, 19th Fl.
Judge: Hon. William Alsup

1 I, Reid P. Mullen, declare as follows:

2 1. I am a partner in the law firm of Keker & Van Nest LLP, counsel to Google Inc.
3 (“Google”) in the present case. In accordance with Local Rule 79-5(d)(1)(A) & (e), I submit this
4 declaration in support of Google’s Administrative Motion to Seal Motions in Limine and
5 Corresponding Exhibits. I have knowledge of the facts set forth herein, and if called to testify as
6 a witness thereto could do so competently under oath.

7 2. The following portions of the motions *in limine*, and supporting materials attached
8 to the Declaration of Maya Karwande in Support of Google’s Motions in Limine (“Karwande
9 Decl.”) and the Declaration of Edward A. Bayley in Support of Google’s Motions in Limine
10 (“Bayley Decl.”), filed by Google on March 23, 2016, summarize, quote from, or reproduce
11 portions of materials that have been designated by Oracle as “CONFIDENTIAL” or “HIGHLY
12 CONFIDENTIAL – ATTORNEY’S EYES ONLY” under the Stipulated Protective Order in this
13 case:

14 **1. Google Motions in Limine**

- 15 **A.** Google’s Motion in Limine 4 to Exclude Market Harm Testimony from Expert
16 Report of Dr. Adam Jaffe: 3:7-9; 5:4-6; 6:3-9
17 **B.** Google’s Motion in Limine 6 to Exclude Portions of Expert Report and Testimony
18 of James Malackowski: 24:24, 26-27, 25:1.

19 **2. Declaration of Edward A. Bayley**

20 **A. Reports of Mr. James Malackowski**

21 **a. January 8, 2016 Report (Bayley Decl. Ex. F)**

- 22 i. Bayley Decl. Ex. F: ¶33, FN 53, ¶ 191, ¶ 193, ¶195-196, ¶197, Figure 26, ¶
23 199, Figure 27, ¶ 203, Figure 28, ¶ 212, ¶ 213. Ex, p 84-85, ex. 12.1, ex.
24 12.2, ex. 12.4, 12.6, ex. 12.9.

25 **b. February 29, 2016 Report (Bayley Decl. Ex. G)**

- 26 i. Bayley Decl. Ex. G: ¶ 59, ¶ 155, ¶173, ¶175-176, ¶ 183, ¶ 188, ¶ 191, ¶
27 192, ¶ 196, figure 9, ¶ 198, ¶ 200-201, ¶ 203, ¶ 206-207, ¶ 210-212, Figure
28 11, ¶ 213-215, ¶217, ¶ 219-221, p. 153, pg 187-198 (ex 12-12.10)

B. Testimony and Reports of Adam Jaffe, PhD

a. February 8, 2016 Report (Bayley Decl. Ex. A)

b. Bayley Decl., Ex. A: ¶58, fn 35, ¶ 61, ¶62, figure 23, ¶ 125-126, ¶ 296, ¶ 299, ¶ 301, fn 411, fn 412, figure 50, ¶ 309, table 7, table 8, fn 444, fn 448, fn 450, fn 452, fn 456, fn 460, ¶ 353, fn 486, ¶ 355, ¶ 356, ¶ 363, fn 506, fn 507, ¶ 370, figure 71, ¶ 373, ¶375, ¶ 383, ¶ 388, ¶ 394, ¶ 400, ¶ 402-403, ¶417-418, fn 598, ¶ 421, ¶ 424, Ex 6, Ex 22

C. Testimony and Reports of Chris F. Kemerer, PhD

a. **January 8, 2016 Report (Bayley Decl. Ex. C)**

i. Bayley Decl., Ex. C at Fn 149, Fn 150, Fn 153, ¶204, Fn165, Fn170, Fn171, ¶249, Fn238, Fn240

3. Declaration of Maya Karwande

Exhibit 2: the deposition transcript of Adam B. Jaffe, taken March 10, 2016

Exhibit 3: the deposition of Douglas Schmidt, taken March 4, 2016

Exhibit 6: excerpts from the deposition of James Malackowski, taken March 17, 2016.

Exhibit 9: excerpts from the deposition of Mike Ringhofer, taken December 2, 2016.

Exhibit 10 is a true and correct copy of an email from Terrance Barr to Nicholas Williams, sent November 14, 2007, marked as deposition exhibit 1371

Exhibit 11 is a true and correct copy of excerpts from the deposition of Henrik Stahl, taken January 14, 2016.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Francisco, California on March 23, 2016.

By: /s/ Reid P. Mullen
REID P. MULLEN